

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF JOANN ESTATES UTILITIES,)	
INC. TO TRANSFER THE LAND, AND PHYSICAL)	CASE NO.
ASSETS OF THE JOANN ESTATE UTILITIES,)	90-393
INC., IN MCCrackEN COUNTY, KENTUCKY, TO)	
BILLY G. WAID)	

O R D E R

On November 26, 1990, an application was filed with the Commission requesting approval of the transfer of all assets of Joann Estates Utilities, Inc. ("Joann Estates") from Ronald and Dee Tucker to Billy G. Waid. The applicants were notified by the Commission that the filing lacked certain information required by regulation. Filing deficiencies were cured on December 28, 1990 when the necessary information was filed with the Commission.

On December 18, 1990, the Commission initiated Case No. 90-408¹ by issuing an Order directing Joann Estates to appear at a hearing scheduled for January 17, 1991 to show cause why it should not be penalized for failing to maintain and operate its three sewage treatment facilities in accordance with accepted good engineering practices. The show cause order was the result of a Utility Inspection Report issued by Commission Staff on October

¹ Case No. 90-408, Joann Estates Utilities, Inc. Alleged Violation of KRS Chapter 278.

12, 1990, which found multiple violations of Commission regulation 807 KAR 5:071, Section 7.

By letter received at the Commission on January 2, 1991, Billy G. Waid responded on behalf of Joann Estates to the allegations in the Commission's show cause order. Mr. Waid stated that he had taken over the management and operation of the three sewage treatment facilities and had corrected most of the deficiencies listed in Staff's report of October 12, 1990. Mr. Waid requested that the hearing scheduled for January 17, 1991 be postponed or cancelled due to the improvements made.

By Order of January 14, 1991, the Commission postponed the hearing scheduled for January 17, 1991 and scheduled an informal conference for January 31, 1991 for the purpose of discussing the status of Joann Estates' three sewage treatment plants and the proposed transfer of the plants to Billy G. Waid. The Commission further ordered Billy G. Waid to file additional information regarding the status of the treatment plants and the proposed transfer.

An informal conference was held in the Commission's offices on January 31, 1991. At the informal conference, Joann Estates provided the information requested in the Commission's Order of January 14, 1991.² Staff advised Billy G. Waid at the conference

² This information had previously been mailed to the Commission under cover letter from Billy G. Waid dated January 21, 1991, but due to the acknowledged fault of the United States Postal Service, the mailed response was not received until after the informal conference.

that it would not recommend approval of the transfer of the plant to him until all of the deficiencies which had resulted in the Commission's show cause order were corrected. As it appeared that Mr. Waid needed additional time to correct the deficiencies, on February 27, 1991 he filed a notarized statement with the Commission waiving the 60-day statutory period prescribed by KRS 278.020(5) for Commission action on his application to acquire Joann Estates. The waiver extended the statutory period to a total of 90 days, expiring on March 28, 1991.

Reinspections of Joann Estates' three sewage treatment plants were conducted on February 5, 1991 and March 12, 1991. Staff's Utility Reinspection Reports dated February 8, 1991 and March 14, 1991, which are attached hereto as Exhibits A and B, respectively, and incorporated herein by reference, revealed that as of March 12, 1991, all of the deficiencies noted at the three sewage treatment plants at previous inspections had been corrected to the extent possible.³ The Commission, by Order dated March 27, 1991, thus found that Joann Estates was no longer in violation of Commission regulation 807 KAR 5:071, Section 7, and dismissed its show cause proceeding against Joann Estates.

³ Staff's October 12, 1990 and February 8, 1991 reports had noted that a security fence was needed around the Timberland plant and lagoon. Staff's report of March 14, 1991 found that the security fence was ready for installation as soon as weather conditions permit, and in any event no later than August 1, 1991.

Having reviewed the application for approval of the transfer and all other evidence of record, and being otherwise sufficiently advised, the Commission finds that:

1. Ronald and Dee Tucker have agreed to sell and Billy G. Waid has agreed to purchase the three sewage treatment plants operated by Joann Estates.

2. The applicants submitted the minutes of a special meeting of the board of directors of Joann Estates held on November 10, 1990. Said minutes reflect the adoption of a resolution transferring ownership of Joann Estates from the Tuckers to Billy G. Waid. An agreement transferring all assets of Joann Estates to Billy G. Waid was subsequently executed on November 19, 1990. Inasmuch as KRS 27.020(4) and (5) require Commission approval of a transfer of ownership of a utility prior to such transfer, the transfer agreement of November 19, 1990 is null and void.

3. Billy G. Waid has employed Jerry Cornwell to operate the Joann Estates plant. Mr. Cornwell is certified as a wastewater system operator by the Kentucky Board of Certification of Wastewater System Operators.

4. Billy G. Waid has the financial, technical, and managerial abilities to provide reasonable utility service to the customers of the sewage treatment plants.

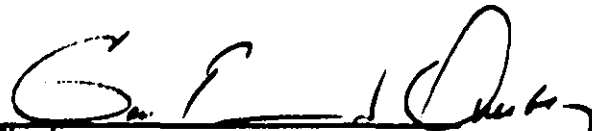
5. Billy G. Waid has filed with the Commission the Articles of Incorporation of Joann Estates; a notice of adoption of the rates of the current owners of Joann Estates; and a valid Third-Party Beneficiary Agreement.

IT IS THEREFORE ORDERED that:

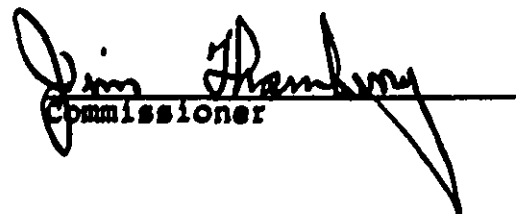
1. The proposed transfer be and it hereby is approved.
2. Within 30 days of the date of this Order, Billy G. Waid shall file with the Commission a newly executed agreement evidencing the transfer of all assets of Joann Estates to him. Said agreement shall be dated subsequent to the date of this Order and shall contain substantially the same terms as the November 26, 1990 agreement.
3. Joann Estates shall maintain its books of account in accordance with the Uniform System of Accounts for Sewer Utilities prescribed by the Commission.

Done at Frankfort, Kentucky, this 27th day of March, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

Commonwealth of Kentucky
Public Service Commission

UTILITY REINSPECTION REPORT

Joann Estates Utilities, Inc.
Paducah, Kentucky

On February 5, 1991, a reinspection of Joann Estates Utilities, Inc. was conducted. The purpose of the reinspection was to see what progress, if any, had been made to date on the improvements or corrections recommended in the Public Service Commission's staff report dated October 12, 1990. The current status of each item is as follows:

Joann Estates Utilities

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

2. The chlorine contact basin needs to be cleaned of sludge. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

3. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)

Current Status: Has access to backup blower/motor unit.

4. The chlorination unit needs to be repaired and put in service. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

5. The tertiary unit needs to be cleaned of sludge and all foreign matter and placed in service. (807 KAR 5:071, Section 7, 1)

Current Status: Is in the process of being done.

6. The bar screen needs to be kept clean. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

7. The plant is currently being operated without a comminutor. As long as the plant can be operated satisfactorily and produce an acceptable effluent the Commission may not require the use of a comminutor. However, the utility must monitor plant operations and immediately install a functioning comminutor should conditions warrant. (807 KAR 5:071, Section 7, 1)

Current Status: A comminutor is now being used at the plant.

8. The scum on the surface of the clarifier needs to be removed. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

9. The skimmers need to be checked for proper operation. (807 KAR 5:071, Section 7, 1)

Current Status: The skimmers are operating properly.

Timberland Subdivision

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

2. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)

Current Status: Has access to backup blower/motor unit.

3. The chlorination unit needs to be repaired and put in service. (807 KAR 5:071, Section 7, 1)

Current Status: Has new chlorination unit.

4. The chlorine contact basin needs to be cleaned of sludge. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

5. One pump in the wet well needs to be repaired and placed in service. (807 KAR 5:071, Section 7, 1)

Current Status: According to owner a pump has been ordered and will be in place in February.

6. The lagoon needs to be treated for duckweed. (807 KAR 5:071, Section 7, 1)

Current Status: The duckweed has been treated.

7. The lagoon impoundment bank needs to be inspected for muskrat damage and repaired if necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Still needs to be monitored.

8. The grass and weeds around the surface edge of the lagoon need to be cut. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

9. The trees, grass and cattails around the lagoon need to be cut. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

10. A security fence around the plant and lagoon is needed. (807 KAR 5:071, Section 7, 4)

Current Status: The security fence is still needed.

11. The lift station at the plant needs to be cleaned of grease. (807 KAR 5:071, Section 7, 1)

Current Status: Has been cleaned.

12. Either a comminutor or a bar screen needs to be installed. (807 KAR 5:071, Section 7, 1)

Current Status: The need for a comminutor or bar screen has been alleviated by the use of a grinder pump in the lift station at the plant.

13. The scum on the surface of the clarifier needs to be removed. (807 KAR 5:071, Section 7, 1)

Current Status: Scum has been removed.

14. The skimmer needs to be checked and repaired if necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Skimmer is operating.

15. The cap on the top of the sludge return needs to be replaced to stop the overflow of sludge on the ground. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

Wilmington-Chiles Subdivision

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

2. The chlorine contact basin needs to be cleaned of sludge. (807 KAR 5:071, Section 7, 1)

Current Status: Has been cleaned.

3. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)

Current Status: Has access to backup blower/motor unit.

4. One pump in the wet well needs to be repaired and placed in service. (807 KAR 5:071, Section 7, 1)

Current Status: According to owner a backup pump has been ordered and will be in place in February.

5. The lagoon needs to be treated for duckweed. (807 KAR 5:071, Section 7, 1)

Current Status: Lagoon still has duckweed.

6. The grass and weeds around the surface edge of the lagoon need to be cut. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

7. The lagoon impoundment bank needs to be inspected for muskrat damage and repaired if necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Still needs to be monitored.

8. The plant is currently being operated without a comminutor. As long as the plant can be operated satisfactorily and produce an acceptable effluent the Commission may not require the use of a comminutor. However, the utility must monitor plant operations and immediately install a functioning comminutor should conditions warrant. (807 KAR 5:071, Section 7, 1)

Current Status: Still needs to be monitored.

9. The grass inside the plant area needs to be cut. (807 KAR 5:071, Section 7, 1)

Current Status: Grass has been cut.

10. The scum on the surface of the clarifier needs to be removed. (807 KAR 5:071, Section 7, 1)

Current Status: Scum has been removed.

11. The effluent is not being chlorinated. (807 KAR 5:071, Section 7, 1)

Current Status: Is still not being chlorinated properly.

12. The chlorine cabinet needs to be repaired. (807 KAR 5:071, Section 7, 1)

Current Status: Still needs a chlorination unit.

13. The wet well needs to be cleaned of grease.
(807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

14. The overflow from the wet well going to the creek needs to be cleaned up and the area limed. (807 KAR 5:071, Section 7, 1)

Current Status: Area still needs to be limed.

15. The skimmer in the clarifier needs to be repaired. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

Submitted,
February 8, 1991

Larry N. Updike (S)
Larry N. Updike
Utility Investigator

Commonwealth of Kentucky
Public Service Commission

UTILITY REINSPECTION REPORT

Joann Estates Utilities, Inc.
Paducah, Kentucky

On March 12, 1991, a reinspection of Joann Estates Utilities, Inc. was conducted. The purpose of the reinspection was to see what progress, if any, had been made to date on the improvements or corrections recommended in the Public Service Commission's staff reports dated October 12, 1990 and February 5, 1991. The current status of each item is as follows:

Joann Estates Subdivision

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

2. The chlorine contact basin needs to be cleaned of sludge. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

3. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)

Current Status: Has access to backup blower/motor unit.

4. The chlorination unit needs to be repaired and put in service. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

5. The tertiary unit needs to be cleaned of sludge and all foreign matter and placed in service. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected. Tertiary unit is serving as wet well.

6. The bar screen needs to be kept clean. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

7. The plant is currently being operated without a comminutor. As long as the plant can be operated satisfactorily and produce an acceptable effluent the Commission may not require the use of a comminutor. However, the utility must monitor plant operations and immediately install a functioning comminutor should conditions warrant. (807 KAR 5:071, Section 7, 1)

Current Status: A comminutor is now being used at the plant.

8. The scum on the surface of the clarifier needs to be removed. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

9. The skimmers need to be checked for proper operation. (807 KAR 5:071, Section 7, 1)

Current Status: The skimmers are operating properly.

Timberland Subdivision

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

2. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)

Current Status: Has access to backup blower/motor unit.

3. The chlorination unit needs to be repaired and put in service. (807 KAR 5:071, Section 7, 1)

Current Status: Has new chlorination unit and is in service.

4. The chlorine contact basin needs to be cleaned of sludge. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

5. One pump in the wet well needs to be repaired and placed in service. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

6. The lagoon needs to be treated for duckweed. (807 KAR 5:071, Section 7, 1)

Current Status: The duckweed has been treated. No duckweed is now present in the lagoon.

7. The lagoon impoundment bank needs to be inspected for muskrat damage and repaired if necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Muskrat damage to lagoon impoundment bank has been repaired.

8. The grass and weeds around the surface edge of the lagoon need to be cut. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

9. The trees, grass and cattails around the lagoon need to be cut. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

10. A security fence around the plant and lagoon is needed. (807 KAR 5:071, Section 7, 4)

Current Status: The security fence is ready for installation. As soon as the weather conditions allow the fence will be installed. It will be completed no later than 8/1/91.

11. The lift station at the plant needs to be cleaned of grease. (807 KAR 5:071, Section 7, 1)

Current Status: Has been cleaned.

12. Either a comminutor or a bar screen needs to be installed. (807 KAR 5:071, Section 7, 1)

Current Status: The need for a comminutor or bar screen has been alleviated by the use of a grinder pump in the lift station at the plant.

13. The scum on the surface of the clarifier needs to be removed. (807 KAR 5:071, Section 7, 1)

Current Status: Scum has been removed.

14. The skimmer needs to be checked and repaired if necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Skimmer is operating.

15. The cap on the top of the sludge return needs to be replaced to stop the overflow of sludge on the ground. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

Wilmington-Chiles Subdivision

1. The diffusers need to be inspected and repaired or replaced as necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

2. The chlorine contact basin needs to be cleaned of sludge. (807 KAR 5:071, Section 7, 1)

Current Status: Has been cleaned.

3. A backup blower and motor unit or immediate access to one is needed in case of an emergency. (807 KAR 5:071, Section 7, 1)

Current Status: Has access to backup blower/motor unit.

4. One pump in the wet well needs to be repaired and placed in service. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

5. The lagoon needs to be treated for duckweed. (807 KAR 5:071, Section 7, 1)

Current Status: Has been treated and is in the process of clearing up.

6. The grass and weeds around the surface edge of the lagoon need to be cut. (807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

7. The lagoon impoundment bank needs to be inspected for muskrat damage and repaired if necessary. (807 KAR 5:071, Section 7, 1)

Current Status: Still needs to be monitored.

8. The plant is currently being operated without a comminutor. As long as the plant can be operated satisfactorily and produce an acceptable effluent the Commission may not require the use of a comminutor. However, the utility must monitor plant operations and immediately install a functioning comminutor should conditions warrant. (807 KAR 5:071, Section 7, 1)

Current Status: Still needs to be monitored.

9. The grass inside the plant area needs to be cut. (807 KAR 5:071, Section 7, 1)

Current Status: Grass has been cut.

10. The scum on the surface of the clarifier needs to be removed. (807 KAR 5:071, Section 7, 1)

Current Status: Scum has been removed.

11. The effluent is not being chlorinated. (807 KAR 5:071, Section 7, 1)

Current Status: The effluent is being chlorinated by a canister drip unit.

12. The chlorine cabinet needs to be repaired.
(807 KAR 5:071, Section 7, 1)

Current Status: The chlorine cabinet has been removed. With a canister drip unit a chlorination cabinet is not needed.

13. The wet well needs to be cleaned of grease.
(807 KAR 5:071, Section 7, 1)

Current Status: Has been completed.

14. The overflow from the wet well going to the creek needs to be cleaned up and the area limed. (807 KAR 5:071, Section 7, 1)

Current Status: Area has been limed.

15. The skimmer in the clarifier needs to be repaired. (807 KAR 5:071, Section 7, 1)

Current Status: Has been corrected.

Submitted,
March 14, 1991


Larry N. Updike
Utility Investigator